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10 Attorneys for Defendant
11 RENAISSANCE RECOVERY
12 SERVICES, LLC., NNB RECOVERY
13 SERVICES, LLC, and
14 SALVATORE PETRUCCI
15

16 GRASSHOPPER HOUSE, LLC, d/b/a
17 PASSAGES MALIBU, a California
18 limited liability company, d/b/a Passages
19 Malibu, PASSAGES SILVER STRAND,
LLC, a California limited liability
company,

20 Plaintiffs,
21 vs.

22 RENAISSANCE RECOVERY
23 SERVICES, LLC, a California limited
24 liability company; NNB RECOVERY
25 SERVICES, LLC, a California limited
26 liability company; and SALVATORE
27 PETRUCCI, an individual,

28 Defendants.

Case No.: CV 10-3198 DMG (JCx)

**DEFENDANTS' REPLY TO
PLAINTIFFS' RESPONSE TO
DEFENDANTS' STATEMENT RE:
RULE 26 CONFERENCE**

Hearing Date: October 18, 2010
Time: 11:00 a.m
Courtroom: 7

DEFENDANTS' REPLY TO PLAINTIFFS' RESPONSE RE RULE 26 CONFERENCE

DECLARATION OF JAMES E. DOROSHOW
IN REPLY TO PLAINTIFFS' RESPONSE TO DEFENDANTS'
STATEMENT RE: RULE 26 NONCOMPLIANCE

I, James E. Doroshow, declare:

5 1. I am an attorney at law duly admitted to practice before the United
6 States District Court for the Central District of California. I am a partner with the
7 law firm of Fox Rothschild, LLP, attorneys of record herein for Defendants and
8 Counterclaimants Renaissance Recovery Services, LLC, NNB Recovery Services,
9 LLC, and Salvatore Petrucci (collectively “Defendants”). I have personal
10 knowledge of the following facts, and if called and sworn as a witness, I could and
11 would testify competently thereto.

12 2. I am in receipt of the document entitled Plaintiffs' Response to
13 Defendants' Statement Re: Rule 26 Conference ("Response") filed by Plaintiffs with
14 this Court on October 4, 2010. In the Response, Plaintiffs take exception to the
15 Statement that my office filed with the Court earlier that day stating that Plaintiffs
16 have "failed to comply with their obligations under Fed.R.Civ.P. Rule 26 to either
17 (i) schedule an in person meeting with defense counsel to conduct the initial meeting
18 of counsel ... [etc.]"

19 3. Plaintiffs are not being candid with the Court.

20 4. The last date set by this Court for counsel to conduct the in person early
21 meeting of counsel was Monday, September 27, 2010. Although I sent Plaintiffs'
22 counsel (Charles J. Harder) emails well in advance of this date asking him to meet
23 with me, he ignored all requests to meet. In fact, *he did not respond until one*
24 *business day before the September 27, 2010 deadline agreeing to meet for the first*
25 *time.* Specifically, I received an email from Mr. Harder demanding that I conduct
26 the Rule 26(f) conference on Monday, September 27, 2010, *the last day to meet.*
27 Having received this late notice and having other commitments on September 27,
28 2010, I promptly advised Mr. Harder that I was unavailable to have a Rule 26(f)

1 conference on Monday, September 27, 2010. This is evident from the emails Mr.
2 Harder himself attached as Exhibit “A” to his Declaration.

3 5. In an effort to try to “cover his tracks,” Mr. Harder now conveniently
4 fails to attach to his Declaration emails that I sent to him addressing this subject and
5 is not being candid with the Court. Because Monday, September 27, 2010 was the
6 last date for counsel to conduct the early meeting of counsel, that same day, I asked
7 Mr. Harder to send me a draft report that I could revise and finalize so that we could
8 meet this Court’s deadline for filing the report by October 4, 2010. A true and
9 correct copy of my September 27, 2010 email reflecting this request is attached
10 hereto as Exhibit “A”.

11 6. Mr. Harder did not send me a draft report and never responded to my
12 September 27, 2010 email. Accordingly, on Wednesday, September 29, 2010, I sent
13 him a second email, to which he never responded. A true and correct copy of my
14 September 29, 2010 email is attached hereto as Exhibit "B".

15 7. By the close of business on Friday, October 1, 2010, I still had not
16 received any response from Mr. Harder or a draft report. Accordingly, when I
17 arrived in my office the morning of Monday, October 4, 2010, having never
18 received a draft report from Mr. Harder, I prepared and filed Defendants' Statement
19 of Plaintiffs' Non-Compliance with their Rule 26 Obligations, the same day the
20 Report would otherwise be due.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Los Angeles, California on October 5, 2010.

By: /s/ James E. Doroshow
James E. Doroshow
Declarant

EXHIBIT A

Doroshow, James E.

From: Doroshow, James E.
Sent: Monday, September 27, 2010 7:08 PM
To: 'charder@wrslawyers.com'
Cc: LeBrane, Claudia A.; 'chassist@wrslawyers.com'
Subject: Re: Renaissance case - Rule 26f conference

I can't. I told you I'm busy. Your deadline has come and passed. Send me a draft report or ill file something myself with the court tomorrow advising the court of your nonfeasance. I'm a busy lawyer charles. I have ten active cases. I cannot reschedule my time because you continue to ignore court ordered deadlines.

From: Charles Harder
To: Doroshow, James E.
Cc: LeBrane, Claudia A.; CHAssist
Sent: Mon Sep 27 21:35:34 2010
Subject: RE: Renaissance case - Rule 26f conference

When can you come to my office tomorrow?

From: Doroshow, James E. [mailto:JDoroshow@foxrothschild.com]
Sent: Monday, September 27, 2010 6:37 PM
To: Charles Harder
Cc: LeBrane, Claudia A.; CHAssist
Subject: Re: Renaissance case - Rule 26f conference

In case your not familiar with the courts rules, counsel are supposed to meet in person for the initial meeting of counsel. Do you need me to send you a copy of the rules again?

From: Charles Harder
To: Doroshow, James E.
Cc: LeBrane, Claudia A.; CHAssist
Sent: Mon Sep 27 19:46:39 2010
Subject: RE: Renaissance case - Rule 26f conference
Mr. Doroshow:

You represented to be below that you were too "busy" to have a phone call with me today to discuss the Rule 26(f) issues. But yet you managed to find the time to send me no less than sixteen (16) emails. I ask that you reconsider scheduling a Rule 26(f) telephonic conference with me tomorrow. If not, I will advise the Court that you avoided the Rule 26(f) conference.

Charles

From: Doroshow, James E. [mailto:JDoroshow@foxrothschild.com]
Sent: Monday, September 27, 2010 8:34 AM
To: Charles Harder

10/3/2010

EXHIBIT B

Doroshow, James E.

From: Doroshow, James E.
Sent: Wednesday, September 29, 2010 7:31 AM
To: 'charder@wrslawyers.com'
Subject: Renaissance

Charles don't send me a draft report as you have unfortunately shown a pattern of doing a day before it is due. I need at least several business days to review and discuss with my client. If I don't have anything by tomorrow I'm going to prepare and file a short report with the court explaining your delay and nonfeasance. I hope this won't be necessary. Jim